CLERK'S COPY.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 247.

JOSEPH NAGANAB, APPELLANT,

vs.

ETHAN ALLEN HITCHCOCK, SECRETARY OF THE INTERIOR.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED APRIL 29, 1905.

(19,735.)

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DD & DIETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DECEMBER 15, 1905.

In the Court of Appeals of the District of Columbia.

JOSEPH NAGANAB, Appellant,
vs.
ETHAN ALLEN HITCHCOCK, Secretary of the Interior. } No. 1465.

Supreme Court of the District of Columbia.

OSEPH NAGANAB, Complainant,
vs.
N ALLEN HITCHCOCK, Secretary of the Interior, Defendant. } No. 24330. In Equity.

D STATES OF AMERICA, } *ss:*
District of Columbia, }

it remembered, that in the supreme court of the District of bia, at the city of Washington, in said District, at the times after mentioned, the following papers were filed and pro- gs had, in the above-entitled cause, to wit:—

Bill.

Filed November 28, 1903.

In the Supreme Court of the District of Columbia.

JOSEPH NAGANAB, Complainant,
vs.
HAN ALLEN HITCHCOCK, Secretary of the Interior, Defendant. } Eq. No. 24330.

e complainant Joseph Naganab brings this suit against the dant Ethan Allen Hitchcock, Secretary of the Interior, and as follows:

That the complainant herein Joseph Naganab is a citizen of nited States is a member of the band and tribe of Chippewa ns of the State of Minnesota and is chief of the band or tribe d Indians formerly occupying the Fon du Lac reservation; and brings this suit in the name of and for the benefit of himself and all the other members of the bands and tribes of Chippewa Indians of the State of Minnesota, many of whom tizens of the United States.

That the defendant, Ethan Allen Hitchcock is Secretary of the ior and this action is brought against him as such.

That the complainant and the said band of Indians to which

he belongs have always resided in the State of Minnesota and kept up and maintained their tribal and band relations as Indian bands and tribes and have occupied and owned the lands and reservations in said State hereinafter mentioned and more fully described, up to the time when, under an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota; approved January 14, 1889, this complainant with the other members of his band and tribe ceded, relinquished and conveyed to the United States of America all of certain of said reservations and certain parts of others hereinafter more fully described, according to the provisions of said act of Congress; and that this complainant signed and executed one of the written reliquishments and conveyances hereinafter set out.

That in and pursuant to the said act of Congress the President of the United States on February 26, 1889, appointed commissioners, to-wit, Henry M. Rice of Minnesota; Martin Marty of Dakota and Joseph B. Whiting of Wisconsin, to negotiate with the said Chippewa Indians. That thereafter and during the year 1889 the said commissioners organized and proceeded to negotiate with the various bands and tribes of Chippewa Indians of the State of Minnesota for a cession, relinquishment and conveyance to the United States of America the said reservations in said act mentioned; such negotiations were made with the following Indian bands of the said Chippewa Indians in the State of Minnesota, viz.,

A. The Red Lake bands,

B. The Pembina bands on White Earth reservation,

C. Mississippi Chippewa Indians, White Earth reservation,

D. Mississippi Chippewa Indians, White Oak Point bands,

E. Mississippi Chippewa Indians, Mille Lac bands,

F-H. Pillager bands on Leech lake, Cass lake and Lake Winnibigoshish reservations,

G. Pillager bands, Ottertail bands, White Earth reservation,

I. Chippewa Indians of Grand Portage reservation,

K. Chippewa Indians of Fon du Lac reservation,

L. Boise Fort and Deer Creek Chippewa Indians.

That a copy of each of said cessions, relinquishments and conveyances is as follows,—

3 "A."

"Signature Rolls Red Lake Bands of Chippewa Indians, Minnesota."

"We, the undersigned, being male adult Indians over eighteen years of age, of the tribes or bands of Chippewa Indians occupying and belonging to the Red Lake reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted and thoroughly explained to our understanding, the act of Congress approved January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota"

(public No. 13), which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby consent to and accept and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States all our right, title and interest in and to all and so much of said Red Lake reservation as is not embraced in the following described boundaries, to-wit:

Commencing at the point on Thief river where the same crosses the line between Marshall and Polk counties, thence easterly to the most northwesterly point of the upper Red lake, thence easterly along the *the* northern shore of said upper Red lake to a point due north of a point one mile east of the easterly end of the lower Red lake, thence due south to the last named point, thence southwesterly in a straight line to a point on Hay creek one mile from where said creek enters lower Red lake, thence south to a point from which a line extending west passes midway between what is called the big marsh and the sugar bush north of and nearest the said marsh, said sugar bush being on the Red lake and White Earth road; thence west along said line between said marsh and sugar bush to Clearwater river, said line being supposed to be about six miles south of the lower Red lake; thence northwesterly along said Clearwater river to the point where said river crosses the boundary of Red Lake reservation as the same has heretofore existed, thence along said reservation line to the place of beginning, as designated by a map published in 1888 by Rand, McNally & Co., of Chicago, Ill., (but all waterways within the reservation above described are to be free for commercial purposes to all citizens of the United States), for the purposes and upon the terms stated in said act, which said lands embraced within the foregoing boundaries have been reserved by the commissioners appointed under said act, and as therein — sions — for the purpose of making and filling the allotments therein provided for.

Witness our hands and seals hereto subscribed and affixed
4 at Old Red Lake agency, on the Red Lake reservation, in the State of Minnesota, this 8th day of July, 1889.

HENRY M. RICE. [SEAL.]
JOSEPH B. WHITING. [SEAL.]
Commissioners.

B. P. SHULER,
United State Indian Agent.
W. C. HUBBELL,
Secretary to Commission."

Then follows the signatures of 247 male adult Indians of the Red Lake reservation.

"We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians of the Red Lake reservation

whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
M. C. ENGLISH,
Interpreter.

JOHN ENGLISH.
H. H. BEAULIEU.
Red Lake Reservation, Minn., July 8, 1889.

We do hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

A. R. JOURDAN.
J. E. PERRAULT.

G. A. MORRISON.
ROBERT FAIRBANKS.
W. R. SPEARS.
Red Lake Reservation, Minn., July 8, 1889."

"EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the Red Lake bands of Chippewa Indians in the State of Minnesota under and — pursuance of the act of Congress of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' wherein it is also provided, 'That all agreements therefor shall be approved by the President of the United States before taking effect,' is hereby approved.

BENJ. HARRISON."

5 "B."

"*Signature Rolls Pembina Bands of Chippewa Indians, White Earth Reservation, Minn.*"

"We, the undersigned, being male adult Indians, over eighteen years of age, of the Pembina tribe or band of Chippewa Indians, occupying and belonging to the White Earth reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted and thoroughly explained and declared that we have heard read, interpreted and thoroughly explained to our understanding the act of Congress approved January 14 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota" (public No. 13) which said act is embodied in the foregoing instrument, and, after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions, thereof, and do hereby grant, cede, relinquish and convey to the United States all our right, title and interest in and to all and so much of said Red Lake reservation as is not embraced in the following described boundaries, to-wit:

Commencing at the point on Thief river where the same crosses

the line between Marshall and Polk counties thence easterly to the most northwesterly point of the upper Red lake, thence easterly along the northerly shore of said upper Red lake to a point due north of a point one mile east from the easterly end of the lower Red lake, thence due south to the last named point, thence southwesterly in a straight line to a point on Hay creek one mile from where said creek enters the lower Red lake, thence south to a point from which a line extending west passed midway between what is called the 'big marsh' and the sugar bush north of and nearest to said marsh, said sugar bush being on the Red Lake and White Earth road; thence west along said line between said marsh and sugar bush to Clearwater river, said line being supposed to be about six miles south of the lower Red lake; thence northwesterly along said Clearwater river to the point where said river crosses the boundary of Red Lake reservation as the same has heretofore existed, thence along said reservation line to the place of beginning, as designated on a map published in 1888 by Rand McNally & Co., of Chicago, Ill., (but all waterways within the reservation above described are to be free for commercial purposes to all citizens of the United States) for the purposes and upon the terms stated in said act, which said lands embraced within the foregoing boundaries have been reserved by the commissioners appointed under said act and as therein authorized for the purpose of making and filling the allotments therein provided for.

6 Witness our hands and seals hereto subscribed and affixed at the White Earth reservation, in the State of Minnesota, this 29th day of July, 1889.

[SEAL.] HENRY M. RICE
[SEAL.] JOSEPH B. WHITING,
Commissioners.

B. P. SHULER,
United States Indian Agent.
W. C. HUBBELL,
Secretary to Commission."

Then follows the signatures of 77 male adult Indians of the Pembina band of Chippewa Indians on the White Earth reservation.

"We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians of the Pembina tribe or band of Chippewa Indians occupying the White Earth reservation whose names are subscribed and affixed thereto and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
WM. V. WARD,
United States Interpreter.
Interpreters.

C. H. BEAULIEU, Sr.
H. H. BEAULIEU.
J. E. PERRAULT.
White Earth reservation, Minn., July 29, 1889.

We hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

JOSEPH HOLE IN THE DAY.
WILLIAM F. CAMBELL.
THEO. H. BEAULIEU.

White Earth reservation, Minn., July 29, 1889.

EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the Pembina tribe of Chippewa Indians occupying or belonging to the White Earth reservation in the State of Minnesota under and in pursuant of the act of Congress of January 14, 1889 entitled 'An act for the relief and civilization of the Chippewa Indians of the State of Minnesota' wherein it is also provided 'that all agreements therefor shall be approved by the President of the United States before taking effect' is hereby approved.

7 "C."

Signature Rolls Mississippi Chippewa Indians, White Earth Reservation, Minn.

We, the undersigned being male and adult Indians over eighteen years of age of the tribes and bands of Chippewa Indians occupying and belonging to the White Earth reservation in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted and thoroughly explained to our understanding the act of Congress approved January 14, 1889, of which the following is a copy, to-wit,"

Here follows verbatim the act of Congress above mentioned.

"And after such explanation and understanding have consented and agreed to said act and have accepted and ratified the same and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish and convey to the United States all our right title and interest in and to all and so much of said White Earth reservation as is not embraced in the following described boundaries, to-wit, townships 141 and 142 of range 37; townships 141, 142, 143, 144, 145, 146 of range 38; townships 141, 142, 143, 144, 145, 146 of range 39; townships 141, 142, 143, 144, 145, 146 of range 40; townships 141, 142, 143, 144, 145, 146 of range 41; townships 141, 142, 143, 144, 145, 146 of range 42; for the purposes and upon the terms stated in said act, which said land embraced within said boundaries have been reserved by the commissioners appointed under said act, and as therein authorized for the purposes of making and filling the allotments therein provided for; and we do also hereby grant, cede and relinquish to the United States, for the purposes and upon the terms stated in said act, all our right, title and interest in and to the lands reserved by us and

described in the first article (ending with the words 'to the place of beginning') of the treaty with the Chippewas of the Mississippi, proclaimed April 18, 1867 (16 Stat., page 719), and also to the executive addition thereto made and described in an executive order dated October 29, 1873; and we do also hereby cede and relinquish to the United States all our right, title and interest in and to all and so much of the Red Lake reservations as is not required and reserved under the provisions of said act, to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

Witness our hands and seals hereto subscribed and affixed at the White Earth agency in the State of Minnesota this 29th of July, 1889.

[SEAL.]
[SEAL.]

HENRY M. RICE,
JOSEPH B. WHITING,
Commissioners.

B. P. SHEELER,
United States Indian Agent.
WILLIAM C. HUBBELL,
Secretary of the Commiss'n."

8 Then follows the signatures of 273 male adult Indians of the White Earth Chippewas; and the signatures of *of* 54 male adult Indians of the Gull Lake band of Chippewa Indians residing on White Earth reservation.

"We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Comm.,
WILLIAM V. WARD,
United States Interpreter,
Interpreters.

C. H. BEAULIEU, SR.
H. H. BEAULIEU.
J. E. PERRAULT.

White Earth agency, July 29, 1889.

We hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

JOSEPH HOLE IN THE DAY.
WM. F. CAMPBELL.
THEO. H. BEAULIEU.

White Earth agency, Minn., July 29, 1889.

EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the tribes and bands of Chippewa Indians occupying and belonging to the White Earth reservation, in the State of Minnesota under and — pursuance to the act of Congress of January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota' wherein it is also provided 'that all agreements therefor shall be approved by the President of the United States before taking effect,' is hereby approved.

BENJ. HARRISON."

"D."

"*Signature Rolls Mississippi Indians, White Oake Point Bands, Minnesota.*

We the undersigned being male and adult Indians over eighteen years of age of the White Oak Point band of Chippewas of the Mississippi, occupying and belonging to the reservation established by executive order, dated October 29, 1873, as an addition to the reservation provided for by the first article of the treaty with the
9 Chippewas of the Mississippi, proclaimed April 18, 1867, (16 Stat. 719) do hereby certify and declare that we have heard read, interpreted, and thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota (public No. 13), which said act is modified in the foregoing instrument, and after such explanation and understanding have consented and agreed to said act and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States all our right, title and interest in and to all and so much of the White Earth reservation as is not required and reserved under and in accordance with the provisions of said act, to make and fill the allotments in quantity and manner as therein provided for the purposes and upon the terms specified in said act; and we do also hereby grant, cede, and relinquish to the United States for the purposes and upon the terms stated in said act, all our right, title and interest in and to the lands reserved by us and described in the first article (ending with the words 'to the place of beginning') of the treaty with the Chippewas of the Mississippi, proclaimed April 18, 1867 (16 Stat. p. 719), and also to the aforesaid executive addition thereto, made and described in an executive order dated October 19, 1873, and we also hereby cede and relinquish to the United States all our right, title and interest in and to all and so much of the Red Lake reservation as is not required and reserved under and in accordance with the provisions of said act, to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

Witness our hands and seals hereto subscribed and affixed at White Oak Point and State of Minnesota, this 6th day of September, 1889.

[SEAL.] HENRY M. RICE,
[SEAL.] JOSEPH B. WHITING,
Commissioners."

Then follow the signatures of 172 male adult Indians of the Mississippi Chippewa Indians, White Oak Point band, Minnesota.

"We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
C. H. BEAULIEU,
Interpreter.

HENRY MARTIN.
WILLIAM BOUYA.

White Oak Point Minn., September 6, 1889."

"We hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

P. H. SHULER,
United States Indian Agent.
WILLIAM C. HUBBELL,
Secretary to Commission.

H. H. BEAULIEU.
G. A. MORRISON.
THEO. H. BEAULIEU.

White Oak Point, September 6, 1889."

"EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing, negotiated with the White Oak band of Chippewa Indians, in the State of Minnesota, under and in pursuance to an act of Congress of January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota' wherein it is also provided, 'That all agreements therefore shall be approved by the President of the United States before taking effect' is hereby approved.

BENJ. HARRISON."

"E."

"*Signature Rolls, Mississippi Chippewa Indians, Mille Lac Bands.*

We, the undersigned being male adult Indians over eighteen years of age of the Mille Lac band of Chippewas of the Mississippi, occupying and belonging to the Mille Lac reservation under and by

virtue of a clause in the 12th article of the treaty of May 7, 1864 (13 Stat., page 693,) do hereby certify and declare that we have heard read, interpreted and thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota' (pub. No. 13) which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby and consent to and ratify the said act, and each and all of the provisions thereof and do hereby grant, cede, relinquish and convey to the United States all our right, title and interest in and to all and so much of the White Earth reservation as is not required and reserved under and in accordance with the provisions of said act to make and fill the allotments in quantity and manner therein provided for the purposes and upon the terms stated in said act; and we do also hereby grant, cede and relinquish to the United States for the purpose and upon the terms stated in said act all our right title, and interest in
11 and to the lands reserved by us and described in the first article (ending with the words, 'to the place of beginning') of the treaty with the Chippewas of the Mississippi proclaimed April 18, 1867, (16 Stat. page 719), and also to the aforesaid executive addition thereto made and described in executive order dated October 19, 1873; and we do also hereby cede and relinquish to the United States all our right title and interest in and to all and so much of the Red Lake reservation as is not required and reserved under and in accordance with the provisions of said act, to make and fill the allotments to the Red Lake Indians, in quantity and manner as therein provided; and we do also hereby forever relinquish to the United States the right of occupancy on the Mille Lac reservation reserved to us by the 12th article of the treaty of May 7th, 1864, (13 Stat. page 693).

Witness our hands and seals hereto subscribed and affixed at Mille Lacs in the State of Minnesota this 5th day of October, 1889.

[SEAL.] HENRY M. RICE,
JOSEPH R. WHITING,
Commissioners."

Then follow the signatures of 189 male adult Indians of the Mille Lac band of Chippewas of the Mississippi.

"We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.

E. H. BEAULIEU,
ALLEN GOURDAN,
Interpreters.

Mille Lac Minn., October 5, 1889.

We hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

E. P. SHULER,
United States Indian Agent.
WILLIAM C. HUBBELL,
Secretary to the Commission.

H. H. BEAULIEU.
H. A. MORRISON.
THEO. BEAULIEU.
Mille Lac, October 5, 1889.

12 EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the Mille Lac band of Chippewa Indians in the State of Minnesota under and pursuant of the act of Congress of January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota' wherein it is also provided 'That all agreements therefor shall be approved by the President of the United States before taking effect,' is hereby approved.

BENJ. HARRISON."

"F.–H."

Signature Rolls Pillager Band of Chippewa Indians, Leech Lake, Cass Lake, and Lake Winibigoshish Reservation, Minnesota.

We the undersigned being male adult Indians over eighteen years of age of the Pillager and Lake Winibigoshish bands of Chippewa Indians residing upon the Leech Lake, Lake Winibigoshish and Cass Lake reservations in the State of Minnesota, do hereby certify and declare that we have heard read and interpreted and thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled 'An act for the relief of the Chippewa Indians in the State of Minnesota' (public No. 13), which said act is embodied in the foregoing instrument, and after such explanations and understanding have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all the provisions thereof and do hereby grant, cede and relinquish and convey to the United States for the purposes and upon the terms stated in said act, all our right title and interest in and to the land reserved and set apart for the Pillager and Lake Winibigoshish bands by the treaty of February 22, 1855 (10 Stat. page 1165), and particularly described in executive order dated December 4, 1873, as follows: to-wit,—

"Beginning at the mouth of the Little Boy river; thence up *send* river through the first lake to the southern extremity of the second lake on said river; thence in a direct line to the most southern point of Leech lake, and thence through said lake so as to include all the islands therein, to the place of beginning," and also to the two other

separate tracks reserved and set apart for said Pillager and Lake Winigigoshish bands, by the second article of said treaty and as therein described and also to the executive addition thereto made and described in an executive order dated May 26, 1874; and we do also hereby cede and relinquish to the United States all our right and title and interest in and to so much of the Red Lake reservation as is not required and reserved under the provisions of said act, to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

13 Witness our hands and seals hereto subscribed and affixed at the Leech Lake agency in Minnesota this 21st day of August, 1889.

[SEAL.] HENRY M. RICE,
[SEAL.] MARTIN MARTY,
[SEAL.] JOSEPH B. WHITING,
Commissioners.

Then follow the names of 466 male adult Indians of the Pillager and Lake Winibigoshish bands of Chippewa Indians residing upon the Leech Lake, Lake Winibigoshish and Cass Lake reservations, Minn.

We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians of Leech lake, Cass lake and Lake Winibigoshish, whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
HENRY MARTIN,
United States Interpreter.

H. H. BEAULIEU.
THE. H. BEAULIEU.
WILLIAM BONGA.

Leech Lake August 21st, 1889.

We hereby certify that we were present and witnessed the signatures of the Indians to the foregoing instrument.

B. P. SHULER,
United States Indian Agent.
W. C. HUBBELL,
Interpreter to the Commission.

ALOYSIUS HERMANUTZ, O. S. V.
Missionary.

G. A. MORRISON.

Leech Lake, August 21st, 1889.

EXECUTIVE MANSION, *March 4*, 1890.

This instrument in writing negotiated with the Pillager and Lake Winibigoshish bands of Chippewa Indians, residing on the Leech Lake, Lake Winibigoshish and Cass, Lake reservations in the State of Minnesota under and in pursuance of the act of Congress of January 14, 1889 entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' wherein it is also provided, 'That all agreements therefor shall be approved by the President of the United States before taking effect,' is hereby approved.

BENJ. HARRISON."

14 "G."

Signature Rolls Pillager Bands of Chippewa Indians, Ottertail Bands, White Earth Reservation, Minnesota.

We the undersigned being male adult Indians over eighteen years of age, of the tribe or band of Ottertail Chippewa Indians occupying and belong- to the White Earth reservation in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted and thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' (pub. No. 13), which said act is embodied in the foregoing instrument and after such explanation and understanding have consented and agreed to said act and have accepted and ratified the said act and each and all the provisions thereof and do hereby grant, cede, relinquish and convey to the United States, all our right title and interest in and to all and so much of said White Earth reservation as is not embraced in the following described boundaries, to-wit:

Townships 141 and 142 of range 37; townships 141, 142, 143, 144, 145, 146, of range 38; townships 141, 142, 143, 144, 145, 146 of range 39; townships 141, 142, 143, 144, 145, 146 of range 40; townships 141, 142, 143, 144, 145, 146 of range 41; townships 141, 142, 143, 144, 145, 146 of range 42; for the purposes and upon the terms stated in said act, which said lands embraced within said boundaries have been reserved by the commissioners appointed under said act, and as therein authorized for the purpose of making and filling the allotments therein provided for, and we do hereby grant, cede and relinquish to the United States for the purposes and upon the terms stated in said act, all our right, title and interest in and to the lands reserved by us and described in the first article, (ending with the words, 'to the place of beginning'), of the treaty with the Chippewas of the Mississippi, proclaimed April 18, 1867 (16 Stat. 719), and also *the to* executive addition thereto made and described in the executive order dated October 29, 1873; and we do also hereby cede and relinquish to the United States all our right title and interest in and to all and so much of the Red Lake reservation as is not required and reserved under the provisions of said act to make and fill allotments

to the Red Lake Indians in quantity and manner as therein provided.

Witness our hands and seals hereto subscribed and affixed at the White Earth agency in the State of Minnesota, this 29th day of July, 1889.

HENRY M. RICE, [SEAL.]
JOSEPH B. WHITING, [SEAL.]
Commissioners.

B. P. SHULER,
United States Indian Agent.
W. C. HUBBELL,
Secretary to the Commission."

15 Then follow the signatures of 59 male adult Indians of the White Earth, Ottertail Chippewa Indians; and 144 of the Ottertail Chippewa Indians.

"We do hereby certify that the foregoing instrument was fully interpreted and explained to the Ottertail Chippewa Indians occupying the White Earth reservation whose names are subscribed and affixed thereto and that we were present and witnessed the signature of each.

C. H. BEAULIEU,
Interpreter to Commission.
WM. V. WARD,
United States Interpreter,
Interpreters.

C. H. BEAULIEU, SR.
H. H. BEAULIEU.
J. E. PERRAULT.

White Earth agency, Minn., July 29, 1889."

"We hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

JOSEPH HOLE IN THE DAY.
WM F. CAMPBELL.
THEO. H. BEAULIEU.
D. A. MORRISON.

White Earth agency, July 29, 1889.

EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the Ottertail band of Indians occupying and belonging to the White Earth reservation in the State of Minnesota, under and in pursuance of the act of Congress of January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' wherein it is also provided 'that all agreements therefor shall be approved by the President of the United States, before taking effect,' is hereby approved.

BENJ. HARRISON."

"I."

Agreement with Chippewa Indians of Grand Portage Reservation, with Signatures.

We the undersigned being male adult Indians over eighteen years of age of the tribes or bands of Chippewa Indians occupying or belonging to the Grand Portage reservation in the State of Minnesota do hereby certify and declare that we have heard read and
16 thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians of the State of Minnesota' (pub. No. 13), which said act is embodied in the foregoing instrument, and after such explanation and understanding have consented and agreed to said act, and have accepted and ratified the same and do hereby accept and consent to and ratify the said act and all of the provisions thereof and do hereby grant, cede, relinquish and convey to the United States, all our right, title and interest in and to the Grand Portage reservation in the State of Minnesota; and we do also hereby cede and relinquish to the United States all title and interest we may have in and to all and so much of the Red Lake reservation as is not required and reserved under and in accordance with the provisions of the said act to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

Witness our hands and seals hereto subscribed and affixed at Grand Portage, on the Grand Portage reservation in the State of Minnesota, this 24th day of October, 1889.

MARTIN MARTY, [SEAL.]
JOSEPH B. WHITING, [SEAL.]
Commissioners."

Then follows the signature- of 72 adult Indians over 18 years of age of the tribe of Chippewa Indians occupying the Grand Portage reservation .

"We do hereby certify that the foregoing instrument was fully interpreted and explained to the Indians of the Grand Portage reservation whose names are subscribed and affixed thereto and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter of the Commission.
JOHN MORRISON,
Interpreter.

Grand Portage reservation, Minn., October 24, 1889."

"We do hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

G. A. MORRISON,
PETER DUFAULD.

W. C. HUBBELL,
Secretary to the Commission.

Grand Portage reservation, Minn., October 24, 1889.

17 "EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the Grand Portage bands of Chippewa Indians in the State of Minnesota, under and in pursuance of the act of Congress of January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' wherein it is also provided, 'That all agreements therefor shall be approved by the President of the United States, before taking effect,' is hereby approved.

BENJ. HARRISON."

"K."

"*Agreement with Chippewa Indians of Fon du Lac Reservation, with Signatures.*

"We the undersigned being male adult Indians over eighteen years of age of the tribes or bands of Chippewa Indians occupying or belonging to the Fon du Lac reservation in the State of Minnesota do hereby certify and declare that we have heard read, interpreted and thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota' (pub. No. 13) which said act is embodied in the foregoing instrument and after such explanation and understanding have consented and agreed to said act and have accepted and ratified the same and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede and relinquish to the United States all right, title and interest in and to the said Fon du Lac reservation in the State of Minnesota; and we do also hereby cede and relinquish to the United States all right, title and interest that we may have in and to all and so much of the Red Lake reservation as is not required and reserved under and in accordance with the provisions of the said act to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

Witness our hands and seals hereto subscribed and affixed, at the school house on the Fon du Lac reservation in the State of Minnesota this 21st day of November, 1889.

HENRY M. RICE, [SEAL.]
MARTIN MARTY, [SEAL.]
JOSEPH B. WHITING, [SEAL.]
Commissioners.

Then follows the signatures of 123 male adult Indians of the Fon du Lac reservation.

"We do hereby certify that the foregoing instrument was fully interpreted and explained to the Indians of the Fon du Lac
18 reservation whose names were subscribed and affixed thereto and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
JOHN MORRISON, *Interpreters.*

FRANK BLATCHFORD,
United States Interpreter.
J. A. I. COFFEY.

Fon du lac reservation, Minn., November 21st, 1889.

"We do hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

R. G. RODMAN, JR.,
Chief Clerk La Pointe Agency.
G. A. MORRISON.

M. A. LEEHY,
United States Indian Agent.
W C. HUBBELL,
Secretary to the Commission.
PETER DUFAULD.

Fon du lac reservation, Minn., April 21, 1889."

"EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the band of Chippewa Indians occupying and belonging to the Fon du Lac reservation in the State of Minesota, under and in pursuance of the act of Congress of January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians, in the State of Minnesota,' wherein it is also provided, 'That all agreements therefor shall be approved by the President of the United States before taking effect,' is hereby approved.

BENJ. HARRISON."

"L."

"Agreement with the Boise Fort and Deer Creek Chippewa Indians, with Signatures."

"We the undersigned being male adult Indians over eighteen years of age of the tribes or bands of Chippewa Indians occupying and belonging to Boise Fort and Deer Creek reservations in the State of Minnesota, do hereby certify and declare that we have heard

read, interpreted and thoroughly explained to our understanding, the act of Congress approved, January 14, 1889, entitled, "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota" (pub. No. 13), which said act is embodied in the
19 foregoing instrument, and after such explanation and understanding have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede and relinquish and convey to the United States all our right title and interest in and to the said Boise Fort and Deer Creek reservations, in the State of Minnesota, and we do hereby cede and relinquish to the United States all right, title and interest that we may have in and to all and so much of the Red Lake reservation as is not required and reserved under and in accordance with the provisions of said act to make and fill the allotments to the Red Lake Indians in the quantity and manner as therein provided.

Witness our hands and seals hereto subscribed and affixed at the school house on the Vermillion reservation in the State of Minnesota this 12th day of November, 1889.

MARTIN MARTY. [SEAL.]
JOSEPH B. WHITING. [SEAL.]"

Then follows the signatures of 212 male adult Indians of the tribe of Chippewa Indians belonging to the Boise Fort reservation, and to the Deer Creek reservation.

"We hereby certify the foregoing instrument was fully interpreted and explained to the Indians, of the Boise Fort and Deer Creek reservations, whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
JOHN MORRISON,
Interpreter.

Vermillion reservation, Minn., Nov. 12, 1889.

We do hereby certify that we were present and witnessed the signatures of the above named Indians to the foregoing instrument.

D. A. MORRISON.
PETER DUFAULD.

W. C. HUBBELL,
Secretary to the Commission.

Vermillion reservation, Minn., Nov. 12, 1889."

"EXECUTIVE MANSION, *March* 4, 1890.

This instrument in writing negotiated with the Boise Fort band of Chippewa Indians occupying and belonging to the Boise Fort and

Deer Creek reservations in the State of Minnesota under and in pursuance of the act of Congress of January 14, 1889, entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, wherein it is also provided, 'That all agreements thereof shall be approved by the President of the United States before taking effect' is hereby approved.

BENJ. HARRISON."

4. Said act provided, among other things, that to complete the extinguishment of the right and title of the said bands and tribes to the said Indian lands that the conveyances thereof should be approved by the President of the United States; and after all such negotiations and proceedings and conveyances to the United States, the Secretary of the Interior made formal report thereof to the President of the United States, and the President of the United States approved the same. His approval thereof is in words and figures as follows, viz:—

"To the Senate and House of Representatives:

In pursuance of the authority and direction contained in the act of Congress approved January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' three commissioners were appointed by the President on February 26, 1889, as therein authorized and directed, namely: Henry M. Rice of Minnesota, Martin Marty of Dakota, and Joseph B. Whiting of Wisconsin, to negotiate with said Indians.

The commissioners have submitted their final report with accompanying papers showing the results of negotiations conducted by them and the same has been carefully reviewed by the Secretary of the Interior in his report to me thereon.

Being satisfied from the examination of the papers submitted that the cession and relinquishment by said Chippewa Indians of their title and interest in the lands specified and described in the agreement with the different bands or tribes of Chippewa Indians in the State of Minnesota was obtained in the manner prescribed in the first section of said act, and that more than the requisite number have signed said agreement, I have, as provided by said act, approved the said instruments in writing constituting the agreement entered into by the commissioners with said Indians.

The commissioners did not escape the embarrassment which too often attends negotiations with Indians, viz: an indisposition to treat with the Government for further concessions while its obligations incurred in former agreements are unkept. I am sure it will be the disposition of Congress to consider promptly and in a just and friendly spirit, the claims presented by these Indians to our commissioners, which have been formulated in the draft of a bill prepared by the Secretary of the Interior and submitted herewith.

The act of January 14, 1889, (25 U. S. Stat. 612) evidently contemplated the voluntary removal of the body of all these bands of Indians to the White Earth and Red Lake reservations; but a pre-

viso in section three of the act authorized any Indian to take his allotment upon the reservation where he now resides. The
21 commissioners report that quite a general desire was expressed by the Indians to avail themselves of this option. The result of this is that the ceded land cannot be ascertained and brought to sale under the act until all of the allotments are made.

I recommend that the necessary appropriation to complete the surveys and allotments be made at once available, so that the work may be begun and completed at the earliest possible day.

A copy of the report made by the commissioners with copies of all of the papers submitted therewith, except the census rolls is herewith presented for the information of the Congress.

BENJ. HARRISON.

Executive Mantion, March 4, 1890."

That by virtue of the said act and of the proceedings thereunder and the said cessions, relinquishments and conveyances and approval aforesaid the Chippewa Indians of the State of Minnesota aforesaid conveyed to the United States of America upwards of 3,555,771 acres, constituting the Boise Fort reservation of 107,509 acres, the Deer Creek reservation of 23,040 acres, the Fon du Lac reservation of 92,346 acres, the Grand Portage reservation of 51,840 acres, the Leech Lake reservation of 94,440 acres, the Mille Lac reservation of 61,014 acres, the Vermillion Lake reservation of 1,080 acres, the Winibigoshish, Cass Lake and White Oak Point reservations of 329,000 acres, a part of the Red Lake reservation of 2,500,000 acres, a part of the White Earth reservation of 92,160 acres.

All of these lands and reservations so conveyed were then held by the United States in trust, not absolute, however. That all of the relinquishments, cessions and conveyances were in trust for the purpose and upon the conditions stated and expressed in said act. That thereafter and pursuant to the provisions of the said act of Congress and in the execution of the said trust the Secretary of the Interior proceeded to examine and classify the said lands as in said act required and that approximately 1500,000 acres thereof were classified as pine land and 1,855,000 were classified agricultural land —600,000 acres of the lands classified under said act as pine lands were situated in that part of the said ceded and conveyed lands known as the following reservations, to-wit; Chippewas of the Mississippi, Leech Lake, Cass Lake and Lake Winnibigoshish. That upon said last mentioned area there was and is standing and growing a large amount of merchantable pine timber reasonably worth in its present condition and of the value of ten million dollars. That the value of the land classified as agricultural land- which were to be sold under said act was $1.25 per acre, the total value of the same being accordingly $2,318,750.00.

It was and is the right of the complainant and of the said Chippewa Indians to have the said trust further and completely executed.

The terms and conditions of said trust are stated in sections five six and seven of the said act and are as follows:

22 SECTION 5. "That after the survey, examination and appraisal of said pine lands has been fully complete- they should be proclaimed as in market and offered for sale in the following manner: The Commissioner of the General Land Office shall cause notices to be inserted once each week for four successive weeks in one newspaper of general circulation published in Minneapolis, St. Paul, Duluth, and Crookston, Minnesota; Chicago, Illinois; Milwaukee, Wisconsin; Detroit, Michigan; Philadelphia, and Williamsport, Pennsylvania; and Boston, Massachusetts, of the sale of said lands at public auction to the highest bidder for cash at the local land office of the district within which said lands are located, said notice to state the time and place and terms of said sale. That at such sale said land will be offered in forty acre parcels except in case of fractions containing either more or less than forty acres which shall be sold entire. In no event shall any parcel be sold for a less sum than its appraised value. The residue of such lands remaining unsold after such public offering shall thereafter be subject to private sale for cash at the appraised value for same upon application at the local land office.

SECTION 6. That when any of the agricultural lands on said reservation not allotted under this act, nor reserved for the future use of said Indians have been surveyed, the Secretary of the Interior shall give thirty days' notice through at least one newspaper published at St. Paul and Crookston in the State of Minnesota, and at the expiration of thirty days the said agricultural lands so surveyed shall be disposed of by the United States to actual settlers only under the provisions of the homestead law; provided, that each settler under and in accordance with the provision of said homestead laws shall pay to the United States for the lands so taken by him the sum of $1.25 for each and every acre, in five equal annual payments and shall be entitled to a patent therefor only at the expiration of five years from the date of entry, according to said homestead laws, and after the full payment of said $1.25 per acre therefor and due proof of occupancy for said period of five years; and any conveyance of said land so taken as a homestead, or any contract touching the same prior to the date of final entry shall be null and void; provided, that nothing in this act shall be held to authorize the sale or other disposal under its provision of any tract upon which there is a subsisting, valid, pre-emption, or homestead entry, but any such entry shall be proceeded with under the regulations and decisions in force at the time of its allowance and if found regular and valid patent will issue thereon; provided, that any person who has not therefor had the benefit of a homestead or pre-emption law and has failed for any cause to perfect the title to a tract of land heretofore entered by him under either of said laws may make a second homestead entry under the provisions of this act.

SECTION 7. That all money accruing from the disposal of said

lands in conformity with the provisions of this act shall after
23 deducting all the expenses of making the census, of obtaining the session and relinquishment, of making the removal and allotments and of completing the surveys and appraisals in this act provided, be placed in the Treasury of the United States, to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of five per centum per annum, payable annually for the period of fifty years after the allotments provided for in this act shall be made, and which interest and permanent — shall be expended for the benefit of said Indians in the manner following: One-half of the said interest shall during the said period of fifty years, except in cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall during the same period and with like exception be annually paid in cash in equal shares *per capita* to all other classes of said Indians; and the remaining one-fourth of said interest shall during the said period of fifty years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said fifty years the said permanent fund shall be devided and paid to all of said Chippewa Indians and their issue then living in cash, in equal shares: Provided, that Congress may in its discretion from time to time during the said period of fifty years appropriate for the purpose of promoting civilization and self-support among the said Indians a portion of the said principal sum, not exceeding five per centum thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of nine dollars annually counting from the time when the removal and allotments provided for in this act shall have been made until such time as said permanent fund exclusive of the deductions hereinbefore provided for shall equal or exceed the sum of three million dollars, less any actual interest that may in the meantime accrue from the accumulations of said permanent fund; the payments of such interests to be made yearly in advance, and, in the discretion of the — Interior may, as to three-fourths thereof during the first five years be expended in procuring live stock teams, farming implements and seed for such of the Indians to the extent of their shares as are fit and desire to engage in farming, but as to the rest in cash; and whenever said permanent fund shall exceed the sum of three million dollars, the said United States *a* shall be fully reimbursed out of such excess for all the advances of interest made as herein contemplated and other expenses hereunder."

5. That up to June 27, 1902, when Congress enacted an act entitled, "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians of the State of Minnesota' approved January 14, 1889," said trust was only partially executed, in

as much as only part of the agricultural lands had been dis-
24 posed of under said act of January 14, 1889, and only part of the pine land had been disposed of. That among the pine lands yet remaining undisposed of is all the pine land upon the following named reservations, viz., the Chippewas of the Mississippi, Leech Lake, Cass Lake and Winigiboshish, upon which there is approximately 600,000 acres of pine lands and 200,000 acres of agricultural land; which said agricultural lands are worth $1.25 per acre; for disposal in pursuance of said trust, and the said pine lands are worth upwards of ten million dollars, to be disposed of in pursuance to said trust. That without the consent of the Chippewa Indians of Minnesota, or any of them and in derrogation of their rights and in contravention of the terms of the trust the said act of Congress, entitled, An act to amend an act entitled, 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota' was passed. That said last named act provided among other things as follows, to-wit:

"That in cutting the timber on two hundred thousand acres of the pine lands to be selected as soon as practicable by the forester — Department of Agriculture, with the approval of the Secretary of the Interior, on the following reservations, to-wit: Chippewas of the Mississippi, Leech Lake, Cass Lake and Winibigoshish which said lands so selected shall be known and hereinafter described as 'forestry lands' the purchaser shall be required to leave standing five per centum of the pine timber thereon for the purpose of re-forestation as hereinafter provided, said five per centum to be selected and reserved in such manner and under such rules and regulations as may be prescribed by the forester of the Department of Agriculture and approved by the Secretary of the Interior; provided further that there shall be reserved from the sale or settlement the timber and land on the islands in Cass lake and in Leech lake, and not less than one hundred and sixty acres at the extremity of Sugar Point on Leech lake, and the peninsular known as Pine Point, on which the new Leech Lake agency is now located, which penisula approximates seven thousand acres and in addition thereto ten sections in area on said reservations last aforesaid, to be selected by the forester of the Department of Agriculture, with approval of the Secretary of the Interior, in lots of not less than three hundred and twenty acres each in contiguous areas, and nothing herein contained shall interfere with the allotments to the Indians heretofore and hereafter made. The islands in Cass and Leech lake- and the land reserved at Sugar Point and Pine Point peninsula shall remain as Indian land under control of the Department of the Interior."

6. That one of the purposes and objects of the said last named act is to authorize the setting aside of about 300,000 acres of pine land as a perpetual forest reserve and to so restrict the sale of the remaining timber on said reservations as to make the same of no value to said Indians. That the said act is in violation of the said trust

under which all of the said lands were conveyed to the
25 United States. That your complainant with all the other Chippewa Indians in the State of Minnesota had at the passage of the last named act, and still have a vested and indefeasible interest in the execution of said trust and the funds to be derived from such execution, which interest was and is valuable property. That said last named act is not only in violation of the said trust but is in direct conflict and violation of article five of the Constitution of the United States, in this, that it deprives the complainant, and each and all of the Chippewa Indians of the State of Minnesota of their property, without compensation, and without due process of law and the said last named act is unconstitutional and absolutely void. That notwithstanding the unconstitutionality and invalidity of said last named act, the Secretary of the Interior has proceeded and is now proceeding to carry its provisions into effect and has actually set aside and authorized the setting aside of nearly three hundred thousand acres of pine lands aforesaid as a perpetual forest reserve and refused to carry into effect the said trust, and to sell and dispose of the same as by said cession, relinquishment and conveyances of said first act required. That the value of the timber on the land so set aside under said void act as a perpetual forest reserve is at least three million dollars and the complainant and each and all of the Chippewa Indians in the State of Minnesota will suffer damage in and to that amount by the carrying into effect of the said void act. That the defendant as Secretary of the Interior in the threatened enforcement of said void act, and for the purpose of putting into effect the forestry provisions thereof has prescribed rules and regulations for the cutting of the timber and the sale thereof on about three hundred thousand acres of pine land, part of said ceded lands, contiguous and adjoining the said proposed forest reserve, a copy of which regulations is hereto attached made a part hereof and marked Exhibit 'A.' Also filed herewith and made a part hereof marked Exhibit " B " is a copy of instructions, description, and estimates for the sale of the pine timber on the Leech Lake and parts of the Chippewa of the Mississippi and Winnibigoshish Indian reservations and rules and regulations for the selling and removal of the timber, approved May 29, 1903 by the defendant herein. Also hereto attached and made a part hereof marked Exhibit " C " is a copy of instructions, description, and estimates for the sale of ninety-five per cent. of the merchantable pine timber on ceded Chippewa pine lands, Minnesota, selected for the national forest reserve, and rules and regulations for the selling and scaling of said timber, approved by the defendant August 29, 1903. That the necessary effect of carrying said rules and regulations into effect will be to reduce the saleable value of the pine timber and the amount to be realized therefrom one-fourth, amounting to more than one million dollars, all of which sum will be taken out of the trust fund aforesaid, and the same will be diminished to that extent. That said Secretary of the Interior is about to sell under said instructions, and

has advertised for sale the pine timber on approximately three
26 hundred thousand acres of said ceded lands to take place, one sale on December 5th, 1903, and the other on December 28, 1903, and unless restrained by the process of this court the defendant, as such Secretary of the Interior will sell the said pine timber at said sale under said rules and instructions under said act to the irreparable injury of the complainant and of all the Chippewa Indians in the State of Minnesota.

Premises considered your complainant prays as follows:

First. That summons issue and this court direct the defendant, Ethan Allen Hitchcock, Secretary of the Interior, requiring him to appear and answer this bill.

Second. That said defendant be temporarily enjoined from all or any further act or acts done and intended to be done in the execution of the said last named act of Congress of June 27, 1902.

Third. That said defendant be perpetually enjoined from all or any further act or acts done and intended to be done in the execution of the last named act of Congress of June 27, 1902.

Fourth. That defendant be required by decree to further and completely execute the said trust and fully account to complainant as provided in the said act of January 14, 1889.

Fifth. That the complainant herein may have — at any and all times hereafter to amend this bill in any or all such particulars as may be deemed advisable or desirable.

Sixth. For any and all such further and other relief as the complainant herein may be entitled to receive, and as the court may deem just and equitable.

The defendant to this bill is Ethan Allen Hitchcock, Secretary of the Interior, in Washington, D. C.

JOSEPH NAGANAB.

UNITED STATES OF AMERICA,
District of Columbia, } *ss:*

I, Joseph Naganab, being duly sworn, swear that I have heard read the foregoing bill of complaint, by me subscribed, and know the contents thereof, and that the matters and things therein stated as on my own personal knowledge are true and those stated on information and belief I believe to be true.

JOSEPH NAGANAB.

Signed and sworn to at Washington, D. C., this 23rd day of November, 1903, before me.

GEORGE P. CHASE,
Notary Public, District of Columbia.

[SEAL.]

TRACY L. JEFFORDS,
Solicitor for Complainant.

27 EXHIBIT "A."

Rules and regulations of the forester of the Department of Agriculture for the cutting and removal of ninety-five per cent. of the pine timber on the ceded lands of those parts of the Cass Lake and Chippewa of the Mississippi Indian reservations, Minnesota, selected for the Minnesota national forest reserve.

DEPARTMENT OF AGRICULTURE,
BUREAU OF FORESTRY,
WASHINGTON, D. C., *October* 21, 1903.

1. No tree shall be cut that is stamped with the letters "US."

2. No white pine or Norway (red) pine, ten inches and under in diameter, three feet from the ground, shall be cut for any purpose, except where absolutely unavoidable in necessary logging operations.

3. All trees shall be cut with a saw whenever practicable.

4. In no case shall the height of the stump exceed the thickness or diameter of the tree two feet above the ground.

5. No tree shall be left lodged in process of felling.

6. So far as reasonable, all branches of the logging shall keep pace with each other. In no instance will the brush piling be allowed to fall behind the cutting and removing of logs.

7. All tops and litter from trees cut under these rules must be burned so as to be safe against fire, under the supervision of the inspector of the Bureau of Forestry, and at such time as he shall select, but the burning of tops or other material larger than eight inches in diameter, or of tops or litter not made by logging under these rules, will not be required. The piles must be compact and large enough to burn clean without repiling, and must not be so near young growth or standing green trees as to endanger either of them, and must be placed where there is least danger of the fire spreading.

8. Unnecessary damage to young growth or trees left for seed must be carefully avoided.

9. As few log roads as practicable shall be cut, nor shall they be made wider than is actually necessary.

10. All merchantable pine timber in felled trees which is six inches or over at the small end shall be logged. Any such timber left in the woods shall be scaled under the direction of the superintendent of logging and paid for by the purchaser of the timber at double the regular stumpage rate.

11. The use of timber in constructing corduroys and bridges, or for road work, shall be confined, whenever possible, to unsalable material, and to dead and down timbers.

12. Merchantable pine timber used for booms, skids, dams, bridges, for building camps, or for any other purpose, shall be scaled,
28 and paid for by the purchaser of the timber at the regular stumpage rate.

13. The location of log landings, loading works on the shores of

lakes or streams, or along railroads, and of railroad side tracks, shall be subject to the approval of the inspector of the Bureau of Forestry.

14. All trees cut for booms shall be carefully measured, and the booms shall be cut in such lengths as will allow all the timber to be cut into merchantable logs.

15. The maximum length for measurement of all white pine logs shall be fifteen feet, and of all Norway pine logs shall be eighteen feet. Upon logs twenty-four inches or less in diameter two inches additional length, and upon logs over twenty-four inches in diameter, three inches additional length shall be allowed for trimming off battered and discolored timber. Longer logs shall be scaled as two or more logs.

16. The length of logs shall be so varied that all merchantable timber six inches and over at the top end shall be utilized.

17. The decision of the inspector of the Bureau of Forestry shall be final in the execution of the foregoing rules.

18. The violation of any of these rules, if persisted in, shall be deemed a sufficient cause for annulling the contract and cancelling the sale of the stumpage.

CLIFFORD PINCHOT, *Forester.*

Approved October 24, 1903.
THOS. RYAN,
Acting Secretary of the Interior.

Demurrer.

Filed January 22, 1904.

In the Supreme Court of the District of Columbia.

JOSEPH NAGANAB
vs.
ETHAN ALLEN HITCHCOCK. } No. 24530, Equity Docket No.—.

Now comes the respondent and by protestation, not confessing or acknowledging all or any of the matters and things in the complainant's bill of complaint to be true in such manner and form as the same are therein set forth and alleged, does demur to said bill of complaint upon and for the following grounds:

1. That there is a defect of parties complainant.

2. That the bill is bad in substance in that it does not set out any facts sufficient to entitle the complainant or the real party in interest, the Chippewa Indians of Minnesota, to the relief prayed for or to any relief.

29 3. That the court has no jurisdiction over the subject-matter of the suit.

FRANK L. CAMPBELL,
Solicitor for Respondent.

I hereby certify that, in my opinion, the foregoing demurrer is well founded in law.

FRANK L. CAMPBELL,
Solicitor for Respondent.

Ethan Allen Hitchcock, who as Secretary of the Interior, is made respondent in the above-entitled suit, being sworn, on oath, says that the foregoing demurrer is not interposed for delay.

ETHAN A. HITCHCOCK.

Subscribed in my presence and sworn to before me this 17th day of December, A. D. 1903.

WM. H. DE LACY,
[SEAL.] *Notary Public in and for D. C.*

Decree.

Filed June 29, 1904.

In the Supreme Court of the District of Columbia.

JOSEPH NAGANAB, Complainant,
vs.
ETHAN ALLEN HITCHCOCK, Secretary of the Interior, Defendant. } No. 24330. In Equity.

Come now the parties to this cause, by their respective solicitors, and the cause having been heretofore submitted to the court upon the demurrer of the respondent to the bill of complaint, and the same having been argued by counsel and the court being fully advised in the premises, does now consider, order and decree that said demurrer be and the same is hereby sustained; and the complainant electing to stand upon his said bill of complaint it is further considered, ordered and decreed that the bill of complaint be, and the same is hereby dismissed; that the respondent go hence without day, and that he recover from the complainant his costs to be taxed by the clerk.

Dated June 29th, 1904.

THOS. H. ANDERSON, *Justice.*

Appeal noted in open court and bond for costs to be in the penal sum of one hundred dollars or in lieu thereof a deposit of fifty dollars.

THOS. H. ANDERSON, *Justice.*

30 *Memorandum.*

July 20, 1904.—$50. deposited by complainant in lieu of appeal bond.

Stipulation as to Transcript.

Filed July 20, 1904.

In the Supreme Court of the District of Columbia, Holding Equity Court.

JOSEPH NAGANAB, Complainant,
vs.
ETHAN ALLEN HITCHCOCK, Secretary of the Interior, Defendant.
No. 24330. In Equity.

It is hereby stipulated by and between counsel for parties herein that transcript of record herein shall contain bill of complaint with Exhibit "A," demurrer and final decree. And that Exhibits "B" and "C" may be used in appeal court, if desired by either party or by the court.

TRACY L. JEFFORDS,
Sol'r for Complainant.
FRANK L. CAMPBELL,
Sol'r for Defendant.

Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia,* } *ss:*

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 49, inclusive, to be a true and correct transcript of the record, as per stipulation of counsel herein filed, copy of which is made part of this transcript, in cause No. 24,330, in equity, wherein Joseph Naganab is complainant, and Ethan Allen Hitchcock, Secretary of the Interior, is defendant, as the same remains upon the files and of record in said court.

Seal Supreme Court of the District of Columbia.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 30th day of August, A. D. 1904.

J. R. YOUNG, *Clerk,*
By ALF. G. BUHRMAN, *Ass't Cl'k.*

Endorsed on cover: District of Columbia supreme court. No. 1465. Joseph Naganab, appellant, *vs.* Ethan Allen Hitchcock, Secretary of the Interior. Court of Appeals, District of Columbia. Filed Sep. 3, 1904. Henry W. Hodges, clerk.

31 WEDNESDAY, *February 15th, A. D.* 1905.

JOSEPH NAGANAB, Appellant,
vs.
ETHAN ALLEN HITCHCOCK, Secretary of the Interior. } No. 1465.

The above entitled cause was submitted to the consideration of the court on the printed record and briefs filed herein by Mr. Tracy L. Jeffords, attorney for the appellant, and by Messrs. F. L. Campbell and W. C. Pollock, attorneys for the appellee.

32 JOSEPH NAGANAB, Appellant,
v.
ETHAN ALLEN HITCHCOCK, Secretary of the Interior. } No. 1465.

Opinion.

(Mr. Justice Duell delivered the opinion of the court:)

This appeal is taken from a decree in equity wherein the court below, after hearing the case upon the bill of complaint and demurrer thereto, refused to enjoin the appellee from carrying out certain provisions of the act of Congress of June 27, 1902, entitled, "An act to amend an act entitled an act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and also refusing to require the appellee to complete the execution of an alleged trust and make an account thereunder, as set forth in an act of Congress approved January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota."

The facts material to a decision herein, as they appear by the bill and the voluminous exhibits referred to in or made a part of the bill, are substantially these:

Appellant, a chief of one of the bands or tribes of Chippewa Indians, being a citizen of the United States, brings the suit for his own benefit and for that of all other members of the tribes or bands of the Chippewas. No express authority to act for parties other than himself is shown by the bill. The ground of the suit is the claimed unconstitutionality of the act of June 27th, 1902.

The Chippewa Indians at one time claimed a right to a large section of country under what has been termed the "ordinary Indian right," and defined to be simply the right of occupancy, the fee remaining in the United States. The complainant and the band of Indians to which he belongs resided in the State of Minnesota,
33 and kept up and maintained their tribal and band relations as Indian bands and tribes, and occupied certain lands and reservations in the State at the time of the passage of the act of Congress of January 14, 1889. Negotiations with the Chippewa Indians under said act resulted in the acceptance and ratification of said act by the Chippewa Indians, and their cessation and relinquishment

and conveyance to the United States of all their right, title, and interest in the reservation mentioned in said act. Copies of the agreements relating to said conveyances are made a part of the bill. It was provided by the act of 1889 that to complete the extinguishment of the right and title of the said bands and tribes to the said lands that the conveyances thereof should be approved by the President of the United States. In due time, and after due consideration, the President approved the agreements and notified the Senate and House of Representatives of such approval, as shown by a copy of his message, which is made a part of the bill. By these acts the Chippewa Indians conveyed to the United States of America their right to upwards of 3,555,771 acres, constituting the various reservations. These lands so conveyed were held by the United States in trust for the purpose and upon the conditions stated and expressed in said act. Pursuant to the provisions of the act, the Secretary of the Interior proceeded to examine and classify the lands and approximately 1,500,000 acres thereof were classified as pine lands and 1,855,000 acres were classified as agricultural lands; 600,000 acres of the land classified as pine lands were situated in the section known as the reservations of the Chippewas of the Mississippi, Leech Lake, Cass Lake, and Lake Winibigoshish. Upon the last-mentioned land there was standing and growing a large amount of merchantable pine timber alleged to be of the value of $10,000,000. The land classified as agricultural land, which was to be sold at $1.25 per acre, was valued at $2,318,750.

The terms and conditions of the trust which complainant insists the Chippewa Indians have the right to have completely executed arise out of the provisions of the act which provides among other things for the sale of certain of the lands and payment into the Treasury of the United States of the proceeds thereof. The sums so received to draw interest at the rate of 5 per centum per annum payable annually for fifty years, and the interest moneys to be expended for the benefit of all the Chippewa Indians in the State of Minnesota, as set forth in the act. At the expiration of the fifty years the principal sum, less any amount advanced for the purpose of promoting civilization and self-support among said Indians, was to be paid to them.

It is further alleged that when the act of Congress of June 27, 1902, became a law the trust was only partially executed, as only part of the agricultural and pine lands had been disposed of under the act of January 14, 1889, there remaining undisposed of some 600,000 acres of pine land and some 200,000 acres of agricultural land, the former being alleged to be worth $1.25 an acre. The bill further alleges that without the consent of the Chippewa Indians of Minnesota, or any of them, and in derogation of their rights and in contravention of the terms of the trust, the act of 1902 in question was passed, and it provided, among other things, for the setting aside of a part of the pine lands then unsold as a perpetual forest reserve and for restricting the sale of the remaining timber on the reservations,

so as to make the same of no value to the Indians; that the value of the lands already actually set aside or authorized to be set aside by the Secretary of the Interior as a perpetual forest reserve are of the value of at least $3,000,000; that the Secretary of the Interior has prescribed rules and regulations for the cutting of timber upon many acres of pine land adjoining the portion set aside for a forest reserve, and that the carrying out of said rules and regulations will reduce the saleable value of such pine timber more than $1,000,000, which sum will be taken out of the trust fund and it will be diminished thereby to that extent. It is alleged that the act is in violation of the trust contained in the act of 1889 under which the lands were conveyed to the United States; that the act is in violation of the trust and in direct conflict and violation of Article V of the Constitution of the United States in that it deprives the complainant and each and all of the Chippewa Indians of the State of Minnesota of their property without compensation and without due process of law, and the said last-mentioned act is unconstitutional and absolutely void.

To the bill of complaint the appellee interposed a demurrer setting forth these grounds:

"1. That there is a defect of parties complainant.

"2. That the bill is bad in substance, in that it does not set out any facts sufficient to entitle the complainant or the real party in interest, the Chippewa Indians of Minnesota, to the relief prayed for or to any relief.

"3. That the court has no jurisdiction over the subject-matter of the suit."

Admitting all the facts set forth in the complaint, which are well and sufficiently pleaded, to be true, and remembering that any allegations as to the construction of the statutes or documentary exhibits referred to therein are not admitted by the demurrer to be correctly alleged, being a matter of law for the determination of the court, we are called upon to examine the cases as presented by the pleadings and see whether anything is presented that differentiates this from other similar cases that have heretofore been decided adversely to the contentions of the appellant.

We are met at the very outset by authoritative decisions of the court of last resort laying down a general rule by which the courts are to be governed when they are asked to declare an act of Congress unconstitutional and enjoin the executive officers from administering it. As has been said, "every possible presumption is in favor of the validity of the statute, and this continues until the contrary is shown beyond a rational doubt." Sinking Fund Cases, 99 U. S. 700; Fletcher & Peck, 6 Cranch, 87.

In the class of cases to which the case at bar belongs we have to bear in mind that it has been most conclusively settled that the Government dealings with the Indians are in their nature political, and that there is consequently little or no room left for the interposi-
34 tion of the courts. We cannot presume that the Executive Department of the Government acted in bad faith in enacting

the act of June 27, 1902, or that either Congress or the President exercises anything but their best judgment in providing for a forest reserve, and placing limitations upon the cutting of timber upon the pine lands in question. In short, that the act of June 27, 1902, was for the benefit of the Indians, bearing in mind the long term referred to in the act of 1889. But however this may be, we fail to discover anything which takes this case out of the general rule laid down in prior decisions of the Supreme Court. Long Wolf *v.* Hitchcock, 187 U. S. 553, and Cherokee Nation *v.* Hitchcock, 187 U. S. 294. In the former case the complainants, claiming due authorization from their tribe, sought to enjoin the defendant, as Secretary of the Interior, from carrying out an alleged unconstitutional act of Congress. The claim of unconstitutionality being that the Indians were deprived of valuable property rights without their consent and to their great injury. The claims are analogous to those made in this proceeding. The court there said:

* * * "Indeed, the controversy which this case presents is concluded by the decision in Cherokee Nation *v.* Hitchcock, 187 U. S. 294, decided at this term, where it was held that full administrative power was possessed by Congress over Indian tribal property. In effect, the action of Congress now complained of was but an exercise of such power, a mere change in form of investment of Indian tribal property, the property of those who, as we have held, were in substantial effect the wards of the Government. We must presume that Congress acted in perfect good faith in the dealings with the Indians of which complaint is made, and that the legislative branch of the Government exercised its best judgment in the premises. In any event, as Congress possessed full power in the matter, the judiciary can not question or inquire into the motives which prompted the enactment of this legislation. If injury was occasioned, which we do not wish to be understood as implying, by the use made by Congress of its power, relief must be sought by an appeal to that body for redress and not to the courts. The legislation in question was constitutional, and the demurrer to the bill was therefore rightly sustained."

It having been repeatedly held that the Indians are wards of the nation, the authority to deal with property set aside for them by agreement with them, or otherwise, is vested in Congress, and this authority having been so frequently recognized by the Supreme Court, is no longer open for discussion.

In whatever way the lands in question may be dealt with by Congress, so long certainly as the proceeds derived from them are set aside for the Indian beneficiaries, it is not open for the courts to interfere with congressional action, even though it may be thought that some other disposition of the lands would be more beneficial. We fail to see how any property is taken from the Indians by the act of June 27, 1902. The act only deals with the method of treating the lands, which, together with all avails therefrom, remain the property of the Indians. Even though it be held that the withholding

of a portion of the lands from sale be considered a taking from the Indians of property, set aside for their benefit by the act of 1889, Congress has often exercised such authority and the courts have recognized the right of the Government so to do. Missouri, Kansas, and Texas Ry. Co. *v.* Roberts, 152 U. S. 114; Spaulding *v.* Chandler, 160 U. S. 394; Cherokee Tobacco Case, 11 Wall. 616.

The existence of power in Congress to deal with tribal property having been so frequently recognized by the courts for the reason that the power is political and administrative, it would be a work of supererogation to amplify by argument, or citation of authorities, our reasons for believing that the second ground of demurrer is well taken. Nor do we deem it necessary to pass upon either of the other grounds of demurrer.

It follows that the action of the court below in dismissing the bill was correct, and its decree is therefore affirmed, with costs.

Affirmed.

35 TUESDAY, *March 14th, A. D.* 1905.

JOSEPH NAGANAB, Appellant, vs. ETHAN ALLEN HITCHCOCK, Secretary of the Interior. } No. 1465. January Term, 1905.

Appeal from the Supreme Court of the District of Columbia.

This cause came on to be heard on the transcript of the record from the supreme court of the District of Columbia, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged and decreed by this court that the decree of the said Supreme Court in this cause be, and the same is hereby, affirmed with costs.

Per MR. JUSTICE DUELL.

March 14, 1905.

TUESDAY, *April 4th, A. D.* 1905.

JOSEPH NAGANAB, Appellant, vs. ETHAN ALLEN HITCHCOCK, Secretary of the Interior. } No. 1465.

On motion of Mr. T. L. Jeffords, attorney for the appellant in the above entitled cause, it is ordered by the court that said appellant be allowed an appeal to the Supreme Court of the United States. And it is further ordered that said appellant deposit with the clerk the sum of one hundred dollars, in lieu of bond.

36 *Memorandum.*

April 11, 1905.—One hundred dollars ($100) deposited with the clerk, for costs, in lieu of bond.

37 UNITED STATES OF AMERICA, *ss:*

To Ethan Allen Hitchcock, Secretary of the Interior, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to an order allowing an appeal, filed in the clerk's office of the Court of Appeals of the District of Columbia, wherein Joseph Naganab, is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the appellant, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Seth Shepard, chief justice of the Court of Appeals of the District of Columbia, this 11th day of April, in the year of our Lord one thousand nine hundred and five.

SETH SHEPARD,
Chief Justice of the Court of Appeals of the District of Columbia.

Service of above citation acknowledged April 11th, 1905.

W. C. POLLOCK,
Solicitor for Appellee.

[Endorsed:] Court of Appeals, District of Columbia. Filed Apr. 11, 1905 Henry W. Hodges, clerk.

38 Court of Appeals of the District of Columbia.

I, Henry W. Hodges, clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages, numbered from 1 to 37, iclusive, contain a true copy of the transcript of record and proceeding in said Court of Appeals in the case of Joseph Naganab, appellant, vs. Ethan Allen Hitchcock, Secretary of the Interior, No. 1465, April term, 1905, as the same remain upon the files and records of Said Court of Appeals.

Seal Court of Appeals, District of Columbia.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the city of Washington, this 24th day of April A. D. 1905.

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Endorsed on cover: File No. 19,735. District of Columbia, Court of Appeals. Term No. 247. Joseph Naganab, appellant, vs. Ethan Allen Hitchcock, Secretary of the Interior. Filed April 29th, 1905. File No. 19,735.